



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

ELP
Docket No. 2733-00
25 September 2000

[REDACTED]

Dear Mr. [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 20 September 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you reenlisted in the Navy on 7 April 1988 for two years as an ABF2 (E-5). At the time of your reenlistment, you had completed more than five years of prior active service.

The record reflects that you served without incident until 23 March 1990 when you received nonjudicial punishment (NJP) for stealing two ratchets, a ratchet extension, a tool carrier, a socket, a digital vehicle clock, an electronic switch, a bag of various bolts, and an open-end wrench. Punishment imposed was a suspended reduction in rate to ABF3 (E-4). Thereafter, you were formally counseled regarding the foregoing misconduct.

You received an adverse enlisted performance evaluation for the period of 1 April 1989 to 31 March 1990. Adverse marks of 2.8 were assigned in the categories of "initiative" and "personal behavior". You were not recommended for advancement or

retention. You were honorably discharged on 6 April 1990, the expiration of your enlistment, and assigned an RE4 reenlistment code.

Regulations require the assignment of an RE-4 reenlistment code to individuals who are not recommended for reenlistment at the expiration of their enlistment. The Board noted your contention that you were discharged for misconduct before your case went to civil court. According to your application, this occurred three days after your discharge. However, you provide no information on the facts and circumstances of your appearance before a civil court, or how it related to the foregoing NJP, if at all. The fact that you had a court case pending did not prevent the commanding officer from separating you. It is your responsibility to provide the necessary documentation to prove your case, not the Board's. The Board concluded that an NJP and an adverse performance evaluation within the last 12 months of your enlistment provided sufficient justification for a non-recommendation for retention and assignment of an RE-4 reenlistment code. The Board thus concluded that the reenlistment code was proper and no change is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director